

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THE WOLFINGTON GROUP,)	
)	
Plaintiff,)	
)	
v.)	Civil Action
)	Docket No. 05-30202-MAP
BERTERA CHEVROLET, PONTIAC,)	
BUICK, INC.,)	
)	
Defendant.)	

JOINT STATEMENT

NOW COME the Plaintiff, The Wolfington Group, and the Defendant, Bertera Chevrolet, Pontiac, Buick, Inc., by and through their undersigned counsel, and, pursuant to Local Rule 16.1(D) and the Court's Notice of Scheduling Conference dated December 13, 2005, submit the following Joint Statement in advance of the Scheduling Conference scheduled for January 18, 2006.

I. PROPOSED AGENDA FOR SCHEDULING CONFERENCE

- Possible ADR
- Proposed Scheduling Order
- Trial by Magistrate

II. SETTLEMENT PROPOSALS

The Plaintiff served the Defendant with a written settlement demand on January 6, 2006, as per Local Rule 16.1(C).

III. CASE SUMMARY

A. Theory of Liability

Copyright infringement, violation of M.G.L. ch. 93A, and contractual claim for indemnification.

B. Theory of Defense

Fair use and M.G.L. ch. 93A not violated.

C. Damages

Plaintiff claims common law damages, statutory damages pursuant to 17 U.S.C. § 504(c)(2), treble damages pursuant to M.G.L. ch. 93A, § 11, and attorney fees pursuant to 17 U.S.C. § 505 and M.G.L. ch. 93A, § 11.

D. Jurisdictional Questions

Defendant contends that Plaintiffs' M.G.L. ch. 93A and contractual indemnification claims lack a nexus to the copyright infringement claim, and, therefore, the Court has no original jurisdiction over the claims.

E. Type of Trial

Plaintiff has demanded a jury trial.

IV. PROPOSED PRETRIAL SCHEDULE

- | | | |
|----|--|------------------|
| 1. | Deadline for joinder of adverse parties: | February 1, 2006 |
| 2. | Deadline for amendments to pleadings: | February 1, 2006 |
| 3. | Deadline for Rule 12 Motions: | April 1, 2006 |
| 4. | Plaintiff's expert witness designations and Rule 26(a)(2) Disclosures: | April 1, 2006 |
| 5. | Defendant's expert witness designations and Rule 26(a)(2) Disclosures: | May 1, 2006 |

- | | | |
|-----|---------------------------------|--------------------------------------|
| 6. | Completion of any mediation: | May 1, 2006 |
| 7. | Discovery deadline: | June 1, 2006 |
| 8. | Dispositive motion deadline: | July 1, 2006 |
| 9. | Final Pretrial Conference | September 2006 |
| 10. | Challenges to expert testimony: | No later than 45 days prior to trial |

V. DISCOVERY PLAN

A. Discovery Needed

Discovery will be taken on factual disputes bearing on liability and damages.

B. Interrogatories

A maximum of twenty-five (25) interrogatories by each party to any other party. Responses due 30 days after service unless otherwise agreed pursuant to Fed. R. Civ. P. 29.

C. Requests for Admission

A maximum of twenty (20) requests for admission by each party to any other party. Responses due 30 days after service unless otherwise agreed pursuant to Fed. R. Civ. P. 29.

D. Depositions

A maximum of seven (7) depositions by Plaintiff and seven (7) by Defendant. Each deposition limited to a maximum of seven (7) hours unless extended by agreement of the parties.

VI. TRIAL BY MAGISTRATE JUDGE

The parties do not consent to a trial by Magistrate Judge.

VII. TRIAL LENGTH ESTIMATE

Three days.

VIII. CERTIFICATIONS

The parties' respective local Rule 16.1(D)(3) certifications will be filed separately.

Dated: January 11, 2006

Respectfully submitted,

/s/ Roy T. Pierce

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